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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/088,778	07/02/2002	Peter A. Crouch	ARD106USA	9526
24339	7590	11/06/2003	EXAMINER	
JOEL D. SKINNER, JR. SKINNER AND ASSOCIATES 212 COMMERCIAL ST. HUDSON, WI 54016			FOREMAN, JONATHAN M	
		ART UNIT		PAPER NUMBER
		3736		
DATE MAILED: 11/06/2003				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/088,778	CROUCH ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Jonathan ML Foreman	3736

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-11 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-11 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 02 July 2002 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.
 

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
  - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.

- 4) Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_ .
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_ .

## **DETAILED ACTION**

### ***Information Disclosure Statement***

The information disclosure statement filed 5/17/02 complies with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609. It has been placed in the application file, and the information referred to therein has been considered by the examiner as to the merits.

### ***Specification***

1. The disclosure is objected to because of the following informalities: there are no headings separating the different sections of the disclosure: i.e. Summary, Brief Description of the Drawings, Description of Preferred Embodiment, etc.

Appropriate correction is required.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the screw threads (Claim 7) and the liner (Claims 8 and 9) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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4. Claims 3 - 5 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claims 3 - 5 recite the limitation "the openings" in line 1. There is insufficient antecedent basis for this limitation in the claims.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 3, 6 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 1,467,772 to Appelhoff.

In reference to claims 1, 3 and 6, Appelhoff discloses applicant's claimed invention including a housing having a closable lid (7), at least part of the housing having a strainer member (9) having openings of a uniform size adapted to allow water entering the housing to escape through the strainer member, but to collect, and retain particulate matter carried by the water (Col. 2, lines 64 – 77). The housing is of dimensions to allow it to be received within the outlet of a bath, shower or wash basin (Col. 1, lines 19 – 27).

In reference to claim 10, Appelhoff discloses locating an evidence collection device within the outlet of a bath, shower or wash basin (Col. 1, lines 19 – 27), allowing an individual to bathe, shower or wash, allowing water to escape from the bath, shower or basin, the water entering the housing and passing through the strainer member, particulate matter carried into the housing being

unable to pass through the strainer member and being retained within the housing (Col. 2, lines 64 – 77). Placing the lid (7) on the device would trap the collected matter within the housing.

8. Claims 1, 3, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 3,402,407 to Andrews.

In reference to claims 1, 3, 8 and 9, Andrews discloses applicant's claimed invention including a housing (22) having a closable lid (28), at least part of the housing having a strainer member (22) having openings of a uniform size adapted to allow water entering the housing to escape through the strainer member, but to collect, and retain particulate matter carried by the water (Col. 1, lines 33 - 39). Andrews discloses liner (18) having an outlet (20), the housing (22) being secured to the liner at the outlet (Col. 2, lines 41 – 43).

9. Claims 1, 4 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,599,170 to Friedman et al.

In reference to claims 1, 4 and 5, Friedman et al. discloses applicant's claimed invention including a housing (12) having a closable lid (15; Col. 3, lines 30 – 32), at least part of the housing having a strainer member (22) adapted to allow water entering the housing to escape through the strainer member, but to collect, and retain particulate matter carried by the water. It has been held that the recitation that an element is "adapted to " perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense.

*In re Hutchison*, 69 USPQ 138. In the present case, the strainer member (22) as disclosed by Friedman et al. could retain particulate matter carried by water. The openings of the strainer member are non-uniform in size with the openings in the central part being of smaller dimensions than those located towards the edges (Figure 5).

10. Claims 1, 2, 7 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,043,082 to Hermann, Jr. et al.

In reference to claims 1, 2, 7 and 8, Hermann, Jr. et al. discloses applicant's claimed invention including a housing having a closable lid (16), at least part of the housing having a strainer member (12) adapted to allow water entering the housing to escape through the strainer member, but to collect, and retain particulate matter carried by the water. The strainer member has a plurality of openings being sufficiently small to ensure that human cells are retained within the housing (Col. 3, line 67 – Col. 4, line 2). The lid of the housing is securable in position by screw threads (13a). Hermann, Jr et al. discloses a liner (8) having an outlet, the housing being secured to the liner at the outlet (Col. 3, lines 34 – 41).

#### *Claim Rejections - 35 USC § 103*

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 1,467,772 to Appelhoff in view of DE 4434544 C1 to Hartmann et al.

In reference to claim 11, Appelhoff discloses collecting evidence in a bath, shower or wash basin, but fails to disclose wiping the bath, shower or wash basin using a cloth or wipe to collect matter adhering thereto. Hartmann et al. discloses a wipe (2) for collecting evidence from a victim or a perpetrator by wiping. It would have been obvious to one having ordinary skill in the art at the time the invention was made to wipe the bath, shower or basin having the collecting device as

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disclosed by Appelhoff, when used by a victim or perpetrator, in order to gather and protect any comparative material, as taught by Hartmann et al., remaining in the shower, bath or wash basin.

### *Conclusion*

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 4,825,477 to Aranda.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan ML Foreman whose telephone number is (703)-305-5390. The examiner can normally be reached on Monday - Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max F Hindenburg can be reached on (703)308-3130. The fax phone numbers for the organization where this application or proceeding is assigned are (703)-872-9306 for regular communications and (703)-872-9306 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)-308-0858.

JMLF  
November 3, 2003

  
MAX F. HINDENBURG  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700